



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

SHANNON NICOLE LEWIS, §
Plaintiff, §
§
vs. § CIVIL ACTION NO. 3:19-1744-MGL
§
ALEX KLAUS, *Owner of Meco Two, LLC*, §
Defendant. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND GRANTING DEFENDANT'S MOTION TO DISMISS**

Plaintiff Shannon Nicole Lewis (Lewis) filed this action against Defendant Alex Klaus (Klaus), the owner of Meco Two, LLC. In Lewis's lawsuit, she complains of (1) religious discrimination pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. (Title VII); (2) disability discrimination, failure to accommodate, and retaliation under the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq. (ADA); and (3) defamation. The Court has federal question jurisdiction over the Title VII and ADA claims, 28 U.S.C. § 1331, and supplemental jurisdiction over the defamation claim, 28 U.S.C. § 1337.

The matter is before the Court for consideration of the Magistrate Judge's Report and Recommendation (Report) suggesting Klaus's motion to dismiss be granted and Lewis's complaint be dismissed without prejudice with leave to file an amended complaint within fifteen days of the date of this Order. The Magistrate Judge further recommends that, if Lewis fails to file an amended complaint within fifteen days of this Order, Lewis's complaint be dismissed with prejudice. The

Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 31, 2019, both Lewis and Klaus filed their objections on November 13, 2019, and Lewis filed her response to Klaus's objections on November 20, 2019. The Court has reviewed the parties' objections, but holds them to be without merit. It will therefore enter judgment accordingly.

In the Report, the Magistrate Judge advised the Court Lewis has abandoned her Title VII claim. The Magistrate Judge also suggests Lewis failed to properly serve Klaus with her complaint. She further recommends Klaus cannot be sued individually under the ADA; and Lewis's complaint contains insufficient allegations as to her ADA and defamation claims to survive Klaus's motion to dismiss.

Lewis objections are non-specific. Thus, having satisfied itself there is no clear error on the face of the record, the Court will overrule her objections.

Klaus makes two objections. First, he states the Magistrate Judge erred in suggesting the Court allow Lewis to amend her complaint. As the argument goes, because Lewis failed to ask to amend her complaint, the Court should not grant to her the opportunity to do so. But, Klaus neglects

to cite, and the Court has been unable to find, any legal support for this position. Consequently, the Court will overrule this objection.

Second, Klaus contends that, even if Lewis filed a motion to amend, it should be denied inasmuch as it would be futile. Setting aside Klaus's argument Lewis must file a motion to amend, versus the Court sua sponte granting such relief, the question presented in this objection is whether Lewis's amending her complaint would be futile. The Court is unable to say at this early juncture it would be. Therefore, the Court will overrule this objection, too.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules the parties' objections, adopts the Report, and incorporates it herein. Accordingly, it is the judgment of this Court Klaus's motion to dismiss is **GRANTED** and Lewis's complaint is **DISMISSED WITHOUT PREJUDICE** with leave to file an amended complaint within fifteen days of the date this Order. If Lewis fails to file an amended complaint within fifteen days of this Order, however, the dismissal will be with prejudice.

IT IS SO ORDERED.

Signed this 15th day of January, 2020, in Columbia, South Carolina.

/s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Lewis is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.